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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ZIBA SHARON EZADI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-73783

Agency No. A073-969-052

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 18, 2009^{**}

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Ziba Sharon Ezadi, a native and citizen of Iran, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

for abuse of discretion the denial of a motion to reopen, and review de novo due process claims. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion when it concluded that the evidence submitted with the motion to reopen was insufficient to demonstrate prima facie eligibility for withholding of removal. *See Mendez-Gutierrez v. Ashcroft*, 340 F.3d 865, 869-70 (9th Cir. 2003) (“prima facie eligibility for the relief sought is a prerequisite for the granting of a motion to reopen”).

We reject Ezadi’s due process contention challenging the BIA’s findings regarding withholding of removal. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (petitioner must demonstrate error to prevail on a due process claim).

To the extent Ezadi seeks review of the agency’s denial of asylum and withholding of removal, we lack jurisdiction to consider the claim because the petition for review is not timely. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.